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1856

Matthew F. M.

The Petition of - etc
to the Senate & House
of Representatives in
Congress Assembled
etc.



THE PETITION OF M. F. MAURY TO THE SENATE AND HOUSE
OF REPRESENTATIVES IN CONGRESS ASSEMBLED, RESPECT-
FULLY SHOWETH:—

That he is a Lieutenant in the Navy of the United States; that he has been injured in his good name, and deprived of professional franchises of great value, without just cause or fair trial; and that the naval service has suffered, and is likely still further to suffer detriment by reason of the mode and manner in which a Board of Naval Officers has proceeded to carry out certain parts of Sections 1 and 2 of the law approved the 28th of February, 1855, entitled "An act to promote the efficiency of the navy," hereunto appended, and marked A.

The Board therein called for, as it appears by a report of the Secretary of the Navy—a copy of which, as published in the *Union* newspaper of this city, is hereunto appended, and marked B—assembled in this city, June 20, last, and concluded its labors the 26th of July.

The law required of this Board a "*careful* examination into the efficiency" of the officers of the grades of captain, commander, lieutenant, master, and passed-midshipman, numbering, according to the Navy Register of 1855, 712 persons, all told. The Board did its work in a manner that was not consistent with the ends of justice, and that does not comport with the dignity of the law; for your petitioner believes it can be shown that the Board went

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through the examination of these 712 officers in less than thirty working days, of about five hours each; notwithstanding it was the duty of said Board to make a *searching* examination—a “scrutiny”—into the ability of each one of these 712 officers to perform, “promptly and efficiently all their duty both ashore and afloat.” Such hasty findings could scarcely be just.

This examination was to be conducted under regulations prescribed by the Secretary of the Navy, a copy of which, as published in the *Union* newspaper of this city, is hereunto appended, and marked C. There is reason to believe that at least some members of the Board misconceived their duty, and took these regulations for instructions. If so, their findings under them were illegal.

Having completed this “careful examination,” the law required the Board to report to the Secretary of the Navy the names and rank of all officers who, in its judgment, should be “incapable of performing promptly and efficiently *all* their duty both ashore and afloat;” and, “whenever said Board shall believe SAID *incompetency* has arisen from any cause implying *sufficient* blame on the part of the officer to justify it, they shall recommend that his name be stricken altogether from the rolls.”

It is submitted that there be comparatively but few officers in the navy capable of performing “promptly and efficiently *ALL* their duty both *ashore* and *afloat*.” Naval duties are multifarious, and involve attainments of the highest order in many departments of learning and knowledge; and it is rare to find any one officer a perfect master of every branch of art and science connected with his profession.

The law-makers, in their wisdom, foresaw and under-

stood this; therefore they did not make the law to require all those who might be found incapable of performing promptly and efficiently *all* their duty ashore and afloat, to be put on the reserved list, but only those were to be so treated whom the Board should find so far wanting as to be “incapable of performing the duties of their respective *offices, ranks, or grades.*” These, the finding of the Board being approved by the President, were to be either dropped from the rolls, or placed in the order of their rank and seniority upon a list in the Navy Register, to be entitled the Reserved List; and those so placed, the law declares, shall be rendered ineligible to further promotion in the naval service, but are subject, nevertheless, “to the orders of the Navy Department *at all times* for duty.” Furthermore, the vacancies created in the active list, by placing officers on the reserved list, were to be filled from below by “regular promotion in the order of rank and seniority.” By this feature of the law, the examiners—the members of the Board—became parties deeply interested in their findings.

It moreover appears by the papers hereunto annexed, and from evidence which your petitioner believes can be made good, that the Board sat with closed doors, kept no journal of proceedings, examined no witnesses, and gave no reasons for its findings; that its members were put neither upon oath, affirmation, nor pledge of honor, to act truly, fairly, and honestly; and that every one of them, so far from having no motive not to do right, was exposed to strong temptations to do wrong.

To the right-minded navy officer lucre is dross when weighed against promotion and professional advancement. And in this instance, the greater the number of officers to

be found wanting, and the higher their place on the Navy Register, the more were the officers on the Board to be professionally benefited. This circumstance, it would seem, ought to have suggested, by way of precaution, the restraining influences of an oath or pledge; of the open light of day, as to their mode of conducting the examination *carefully*, according to the law. It is suggestive, also, of a faithfully kept journal, and of a record of votes by ayes and noes. But for reasons unaccountable to your petitioner, it appears that the members of the Board neglected all these promptings of prudence.

He has also reason to believe that the Board made no declaration for the guidance of members as to what should constitute efficiency or inefficiency; nor laid down any other rule tending to insure even-handed justice or consistency of finding, or to restrain members from casting votes according to arbitrary judgment. On the contrary, all the precautions and checks tending to restrain prejudice, bridle envy, or curb malice, and to protect those who were submitted to this cruel ordeal from injustice, were totally neglected. Thus the door was left invitingly open to *arbitrary*, and, therefore, TYRANNICAL findings.

Neither the law, nor any precept of the Department, forbade such precautions; justice and fair dealing certainly required them.

The findings of the Board, standing naked and unexplained as they do, when taken in connection with these facts and circumstances, are well calculated to excite suspicions, as injurious to the integrity of those officers as their finding is to the reputation of your petitioner.

Every officer who should be voted incompetent would,

if he were above the junior member of the Board, advance or promote one or more of its members; but if below, none. Of the 362 who stood above the junior member of the Board, 138 were found wanting; of the 332 who stood below him *in the line of promotion*, only 46 were found light in the scales.

It may be urged, in explanation of this startling contrast, that there were above the junior member two entire grades—Captains and Commanders—that are composed, for the most part, of the oldest men in the service, and that, therefore, it is natural that a greater proportion of these should be found worn and unfit for service than would be so found in the junior grades. Granted.

Let us take his own grade. Of the Lieutenants above the junior member of the Board, one-third were retired; of those below him, one-seventh.

These facts are well calculated to excite suspicion and arouse inquiry. Your petitioner is not able to point out members, for a bare majority constituted “the vote—the judgment of the Board” (C). The rights of the minority were disregarded, and there is no clew by which due responsibility may be traced either to majorities or individual members.

Nevertheless, your petitioner has been wronged. The only clew to the motives of the Board is afforded by its acts; and when he tries its findings by his own knowledge of the antecedents of officers, he is forced to the conclusion that one or more members of the Board, to him unknown, have, in their findings, yielded to the temptations of irresponsible power, and pronounced arbitrary judgment upon him; for, let your petitioner place himself in

whatever category he may, he finds officers in an equal or less favorable condition as to efficiency promoted or advanced by the action of the Board, while he has been set aside under its finding as incompetent.

If it be said that your petitioner was overslaughed because of a broken leg, the reply is: there are other officers who are maimed and blind, who were not so treated; nay, there was a member of the Board who had twice suffered the misfortune of a broken leg. No surgical or other examination, to the best of your petitioner's belief, was held upon either; and yet your petitioner has been officially degraded, while this member of the Board has been honored with promotion.

If it be because of unemployed time, the Navy Register shows that officers have been advanced by the action of this Board, who have been unemployed altogether 25 years since they entered the Navy—more than half their time. One of the Board has been idle 23, and another 18 years; while the unemployed time of your petitioner amounts to only 7 years and 7 months. *Pro rata*, the official roster shows that he has been more constantly on duty than the Captains and Commanders on the Board themselves have been, according to the allotment of averages.

If want of sea-service be urged, then the register will show that the ratio of sea-service to his credit is greater than that of several of his brother officers who have been promoted in consequence of the findings of the Board.

With these facts, and a fair reputation, your petitioner is at a loss to conceive wherefore, except by the mere arbitrary will and pleasure of certain members of the Board, this heavy finding has been brought against him.

But, right or wrong, your petitioner, without being informed of the nature of the charges, or confronted with the witnesses against him, has been adjudged by this Board to be *professionally incompetent*; and, according to its recommendations, as appears by a letter of the Secretary of the Navy—a true copy of which is hereunto appended, and marked D—he has been placed on the Reserved List, and rendered hereafter and forever by law ineligible to further promotion in the Navy of the United States; and he has already been exposed to official degradation in consequence thereof, by having his juniors lifted up and promoted over his head.

To disfranchise and degrade an officer without specifying the nature of the accusation against him, is surely against the spirit of American law: to cast him off on the broad grounds of *incompetency*, is an outrage upon natural justice.

What constitutes official incompetency? Ignorance, idleness, drunkenness, all sorts of immoral habits and infamous practices—anything that is debasing; nay, everything that is wicked or vile. An officer is rendered incompetent by disaffection, treason, and cowardice, or any ignoble trait or infamous conduct. The finding of the Board is a warrant and an invitation for the evil-minded to impute any of these to your petitioner.

He humbly submits that he has not deserved such treatment at the hands of any tribunal of his country. He has served it, to the best of his poor abilities, for upwards of thirty years. During all that time his career in the service has been without official reproach. He has never been tried for any offence or accusation; and the

Secretary of the Navy has stated in his place (H) that other officers, like your petitioner, "of spotless character and eminent service," have been treated in like manner with himself, by this Board.

Spotless reputation is dearer than professional advancement; and though the finding of the Board deprives your petitioner of valuable professional privileges, and inflicts the severe punishment of a living naval death, yet he feels that this is light and easy in comparison to the damning stigma of professional INCOMPETENCY, which a majority of this Board, composed of his peers, has secretly and illegally passed upon him.

Your petitioner is ready for any sacrifice that the public good may require of him.

Upwards of thirty years ago he took the oath and pledged the abilities with which his Maker had endowed him, humble though they were, yet loyal and true, to the service of his country. He has ever borne this pledge of his youth in remembrance, as a rule of conduct; and he is ready now, as he was then, to do what a sailor may do for his country's good. Therefore, if his presence hinder the efficiency of the Navy—nay, if it do not add to and promote it—he is willing to give place to better men, and to retire to the walks of private life. But, in going, let not his fair fame be tarnished or made a target for the shafts of malice. His good name is very precious; therefore he prays your honorable body to interpose with your high authority, and protect him in it.

Your petitioner has resorted to and exhausted all other fair and lawful means for redress. He has sought it at the hands of the Executive, as the correspondence—a

true copy of which is hereunto annexed, and marked D—J—will show.

Failing there, your petitioner resolved to appeal to the sense of justice of his brother officers who composed the Board, and ask them, if not for the Board, at least each for himself, to say wherefore this deep official disgrace had been inflicted.

Accordingly a letter—a true copy of which is hereunto appended, and marked K—was addressed to each one of the fifteen. A true copy of their replies is hereunto appended, and marked K¹ to K¹⁵.

They all, save Lieutenants Wm. L. Maury (K¹⁴) and James S. Biddle (K¹⁵), declined to answer.

The latter, with commendable frankness, states—speaking for himself, not for the Board—wherein he found your petitioner “incapable of performing the duties of his office, rank, or grade.” It was, he alleges, in consequence of an accident which befell your petitioner while in the act of obeying orders in the year 1839, and by which accident the right leg of your petitioner was fractured and otherwise injured.

After the happening of that accident, a suit* was forthwith instituted in the name of your petitioner, to recover damages for the injury thus sustained; and the evidence which has satisfied Lieutenant Biddle that your petitioner is *now* unfit for sea-service is derived, he says, from that case. It was brought in the State of Ohio 15 years ago.

Such is the character of the evidence that has governed one of the judges, at least, that have weighed your petitioner in secret. He surely must have acted under a mis-

* Maury vs. Tallmadge, 2 McLean's Reports, 157.

conception of the true intent and meaning of the law. It required the Board to make an examination into the efficiency of officers *now*, in 1855, not in 1840, 15 years ago. Your petitioner was here on the spot, and there was no lack of naval surgeons at command. A medical examination as to his present bodily condition might have been had for the asking; yet it was not called for, but the case in the Ohio court preferred.

Your petitioner avers that he believes himself able to perform efficient service at sea. He has so considered himself ever since his recovery from the temporary disability incurred by the Ohio accident; and that, officially, he has so held himself, he refers for proof to the fact that he applied for service afloat during the Mexican war, as the files of the Navy Department will show. And, furthermore, your petitioner holds himself now, as he has ever aimed to do, equal to the prompt and efficient performance of any professional duty whatever, upon which the government may be pleased to order him.

But as shocking as is the idea of raking up such evidence, it is not so shocking as another principle which this member avows as a rule of action for the Board. According to him (K¹⁵), the Board, in weighing the efficiency of officers, could make no difference between sheer idleness and the most important and useful service on shore.

It sounds strangely that such notions as those expressed in K¹⁵, should be held by one of the officers whose duty it was to promote, by his counsel, the efficiency of the Navy. In laying down the law, this officer intimates with a significance not to be mistaken—that had your petitioner been cleared in that secret council on the broken-

leg count, there was still another in reserve upon which conviction would have been sure, viz: "Love of scientific distinction." This, though "otherwise laudible" enough, had, it is intimated, induced your petitioner to prefer service ashore to service afloat. On this count, it is held, the Board would have had no alternative, they were *bound* to remove from the active list "every such officer" (K¹⁵).

Your petitioner earnestly and solemnly protests against such doctrines. He is an officer of inferior rank, and subject to the lawful orders of his superiors. He is sworn to obey them. ~~Without any solicitation on his part,~~ they have ordered him to do duty on shore; and, notwithstanding his application in the interim for sea service, he has been retained on shore duty by their command, and for the reason, it is presumed, that they deemed his services to be of more value to the country on shore than at sea.

To restrain officers from employment in any particular line of duty in which their services are thought by the Executive to be most valuable, would be ruinous to the Navy, or any other branch of service.

It is submitted that Congress never intended to discredit useful service, or bounden duty of officers, be it performed on shore or afloat—provided it be performed efficiently and well. Your honorable body, it is humbly conceived, never intended to cast such a reproach upon science in the Navy or its disciples, as to class the demands of the public service upon it and them, for important naval duty anywhere, with downright official idleness.

The law did not authorize any such classification; nor is there any principle or practice known in the Navy that

would authorize due credit to be withheld from an officer for obeying orders, and performing to the best of his abilities, the duties assigned him, be they by sea or land, and of whatever nature. The law drew no distinction between duty ashore and duty afloat; and neither Lieutenant Biddle nor the Board had any right, it is submitted, to give more credit for one than for the other.

Your petitioner, as appears by the Navy Register of 1855, has been employed on shore duty 12 years and 8 months. One member of the Board has been *unemployed* 23 years and 9 months; and another 18 years and 1 month. ~~These officers were not retained;~~ yet in the opinion of the junior member, the Board would have been bound to have a fling at science in the Navy, and remove your petitioner from the active list.

Whether your petitioner's absence from the sea "arose," in the language of this one of his judges, "from idleness, love of ease, love of money, preference for other pursuits, or even from an otherwise most laudable *love of scientific distinction*," it could make no difference; the fact of absence from sea brought him "under the condition of the Secretary's instructions as having become incompetent from neglect of duty, and inattention and indifference to his profession." "The plea," continues this officer, in this remarkable exposition of his own views, and the duties of the Board, "of not having been compelled by the Executive authority to perform this service (at sea), if admitted for one, is equally available for every instance of duty neglected or unperformed. And thus one of the most important objects of the Board's appointment," says he, "would be entirely defeated" (K¹⁵). "The Secretary of the Navy," he adds, "discerned, acknowledged, and very

wisely removed this source of embarrassment by his instructions to the Board" (K¹⁵).

Thus the admission is made, that it would not only be injurious to the Navy to class duty ashore with duty afloat, as your honorable body in the law had classed them; but the very object which your honorable body had in view in ordering this Board would, it is held, be defeated, unless the officer lounging away his time in listless idleness on shore, and he who is engaged in the scientific callings of his profession on the land, were placed in the same category.

It is clearly intimated, also, that the law did not exactly authorize such an extraordinary proceeding, for the Board felt *embarrassment*, but happily the instructions of the Secretary of the Navy *wisely* removed it (K¹⁵).

The mischievous tendencies of the strange notions do not end with the slur and the slight cast upon your petitioner, and through him upon the cause of naval science—ay, of naval progress and improvement—for these and the advancement of science in the Navy are correlative terms; they broach the old exploded doctrine of routine, and tend to level down, not up.

The scientific interests of the Navy were unrepresented in the Board. Its members, from the nature of the duties upon which they had been chiefly engaged, had, it may be supposed, in the main, but little sympathy with the men of science. Every officer, Lieutenant Biddle holds, should do *his share* of sea service; the Executive, by implication, should have no authority to detail officers for special service or particular duty, because of scientific attainments or peculiar fitness.

Your petitioner has never had the honor of serving

with Lieutenant Biddle; he has heard him spoken of as an officer in good standing among his fellows. But he submits whether an officer who holds going to sea as *the most UNPLEASANT* duty of the Navy, is likely to be a very good judge as to what really does constitute efficiency or inefficiency. Biddle holds that every officer should perform his share of service afloat, the *MOST UNPLEASANT* duty of the Navy! (K¹⁵).

With members of the Board entertaining such sentiments, no wonder that the cry in the land of unlawful and unjust has been raised against their proceedings.

The practical meaning of this sentiment is: in the arrangement and distribution of the duties of the Navy, let the personal convenience of the officers, not the good of the public, be the main object. However rare be the attainments of an officer, or unrivalled his qualifications for some most important professional duty on shore, he must be broken out for sea in turn, because "he owes it" to his *brother officers* to perform his *share* of the *most unpleasant duty of the Navy*, viz: *Service afloat*.

Would the practical application of this doctrine promote the efficiency of the Navy?

Your petitioner demurs: he has been brought up in a different school, and where the doctrine was taught that an American Navy officer owes service to the public, not to his brother officers; and that wherever his country and his duty call, there, whether at sea, the "most unpleasant duty of the Navy;" or on shore, where the "love of scientific distinction" gives a zest, and lends additional charms to the duty—there, and there alone, it is the business of officers to be, conscious and right sure that they are performing "*their share*" in the public service.

The duties of the Navy, according to these new lights from the Board, should be all routine, and such as one officer may perform as well as another: To admit that naval duty rendered in the cause of science on shore, would entitle an officer to be considered as at all efficient in his profession, would be the aiming of a fatal blow at the Navy! (K¹⁵). Your petitioner feels these doctrines to be hurtful, and believes them to be fraught with mischief to the Navy. They belong to another age and country, not to this.

As for this and other members of the Board throwing themselves behind the Secretary of the Navy, and pleading in excuse of high-handed proceedings what they are pleased to term his *instructions*, that high functionary, it is submitted, had no authority under the law to instruct this Board. The law commanded him to prescribe regulations for the conduct of its proceedings. This he did (C); but he had no more right to *instruct* the Board than he has, without express authority of law, to instruct any other commission raised by your honorable body.

From the testimony—faint and glimmering though it be—which the junior member has kindly given us, touching the secret doings of the Board, and from admissions made by others of his colleagues, there is room for the conjecture that he is not the only member of the Board who forsook the law and adopted those fancied instructions of the Secretary of the Navy in its stead. Pendergrast (K⁶), Du Pont (K⁸), and Godon (K¹³), all allude to *instructions* from the Secretary of the Navy as governing or influencing them in some way or other in their findings.

Furthermore, the very findings of the Board indicate

that some such principle as Lieutenant Biddle announces, was recognized by other members also.

Such irregular proceedings, besides being illegal and unjust to individuals, are, it is humbly submitted, fraught with mischief also to the public service.

Your petitioner further begs leave to state, that he has not served with any member of the Board for 20 years; and that he is unable to say upon what grounds the Board claims to have found him "*incapable of performing the duties of his office*;" for his office was not inspected by the Board, nor did the Board, as far as he can learn, inquire into its condition, either through himself or any of the officers connected with its management.

Wherefore, your petitioner charges the Board, or a majority thereof, composed of individuals to him unknown, with having done injury to the naval service and the fair fame of your petitioner. He accuses them of having passed arbitrary judgment, which is tyranny. He charges them with having wantonly offended the majesty of the law, and with having acted contrary to the true meaning and intent thereof. He charges them with having abused the power intrusted to their hands, with having, by their mode of procedure, ignored the usages of the law, and spurned its most cherished maxims. Finally, he charges them with having violated the principles of natural justice, and with having done outrage to sentiments that are very dear to the hearts of all good citizens.

Believing these charges and allegations to be true, and that the public service, as well as the good name of your petitioner, requires them to be investigated, and the wrongs done to be righted; he prays your honorable body to take the matter into consideration, and cause

inquiry to be made as to the manner in which certain terms of an Act, entitled "An Act to promote the efficiency of the Navy, approved February 28, 1855," have been carried out by the Board of Naval Officers therein called for. He further prays, that the officers who composed that Board—may each in turn be confronted with your petitioner, and held to answer wherefore and upon what evidence they, the said members of the said Board, have ventured without cause to cast a stigma upon his professional reputation.

And as in duty bound, your petitioner will ever pray,
&c.

M. F. MAURY.

OBSERVATORY, WASHINGTON.

January, 1856.

APPENDIX.

A.

PARTS OF SECTIONS 1 AND 2 OF AN ACT TO PROMOTE THE EFFICIENCY OF THE NAVY. APPROVED FEB. 28, 1855.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as soon as practicable after the passage of this act, the President of the United States shall cause a Board of Naval Officers to be assembled, to consist of five captains, five commanders, and five lieutenants, which Board, under such regulations as the Secretary of the Navy may prescribe, shall make a careful examination into the efficiency of the officers of the grades hereinafter mentioned, and shall report to the Secretary of the Navy the names and rank of all officers of the said grades who, in the judgment of said Board, shall be incapable of performing promptly and efficiently all their duty both ashore and afloat; and whenever said Board shall believe that said incompetency has arisen from any cause implying sufficient blame on the part of the officer to justify it, they shall recommend that his name be stricken altogether from the rolls. * * *

SEC. 2. *And be it further enacted,* That all officers who shall be found by the said Board incapable of performing the duties of their respective offices, ranks, or grades, shall, if such finding be approved by the President, be dropped from the rolls or placed, in the order of their rank and seniority at the time, upon a list in the Navy Register, to be entitled the reserved list; and those so placed on the reserved list shall receive the leave of absence pay or the furlough pay to which they may be entitled, when so placed according to the report of the Board and approval of the President, and shall be ineligible to further promotion, but shall be subject to the orders of the Navy Department at all times for duty; and vacancies created in the active service list, by placing officers on the reserved list, shall be filled by regular promotion in the order of rank or seniority. * * *

B.

(From the Washington Union, Sept. 21, 1855.)

NAVY DEPARTMENT, Sept. 5, 1855.

SIR: By the provisions of the "Act to promote the efficiency of the Navy," approved Feb. 28, 1855, it became the duty of the Board of

Naval Officers assembled in pursuance thereof to report to the Secretary of the Navy the result of their proceedings.

The order notifying them of their appointment was issued June 5th, 1855. They assembled on the 20th of June, and concluded their labors on the 26th of July last. Their report to the Secretary, in accordance with the requirements of the law and the regulations prescribed having been made, is herewith submitted to you for your approval or disapproval.

You have, however, informed me that you desire my views on this important and delicate subject, and I shall, therefore, present them as briefly as possible, with much deference, yet with frankness.

You will, no doubt, recollect that in my two annual reports I urged the importance of some measure of reform by which inefficient officers could be relieved and the efficient be promoted; and suggested the interposition of a Board of Naval Officers, with a view to reaching more surely a correct and just result.

The great end sought to be attained by Congress was "to promote the efficiency of the Navy," by removing from the "active service list" all officers found incompetent to do their whole duty efficiently and promptly, both ashore and afloat, and by dropping entirely from the rolls such as are to blame themselves for their incompetency. Some mode, then, was to be adopted, and some persons selected to "examine" and make a "finding" of not only the incompetent, but also of those who had become so from causes for which they were to "blame." The law on this point speaks plainly and distinctly. It does not impose this task upon, or intrust this delicate duty to, the Secretary of the Navy, or even the President. It does, however, provide that the persons who are to perform this work shall be fifteen "Naval officers," to consist of five captains, five commanders, and five lieutenants, ordered by the President. After thus selecting the persons who are to execute this work, it then provides how it is to be done. This Board of fifteen Naval Officers "shall make a careful examination into the efficiency of the officers of the grades" specified. After this "careful examination," what does the law next require? Its terms are again plain. They "shall report to the Secretary of the Navy—not an argument to sustain their conclusions—not the facts, the evidence, nor the copies of records by which they formed their judgment, but simply "the names and rank of all officers of the said grades who, in the judgment of said Board, shall be incapable," &c. &c., and recommend those "to be stricken altogether from the rolls" whenever said Board shall believe their incompetency has arisen from causes implying sufficient blame.

It may not be uninteresting to call your attention to the fact that this mode of proceeding is by no means novel, and on occasions when Congress directed the reduction of the Army, by which many offices were necessarily dropped from the service, the delicate task was performed in a somewhat similar manner, by the President appointing a Board, who, after examination, reported the names of such as, in their opinion, should be retained, without assigning any reasons or facts which caused them to prefer some and exclude others. I have before me the report of the Board on the reduction of the army under the act of 1815. They report names and give merely the result of their examination, without facts or reasons, and their report was adopted by the President.

This finding—"this judgment" of the Board—is not, however, permitted to go into execution without the sanction of the President, who is very wisely authorized to disapprove of their action, by which means a safeguard is provided to protect the public service from any flagrant abuse of power.

At your suggestion, I have carefully examined their report.

The peculiar fitness of the officers selected for this delicate and arduous duty, has been conceded, with remarkable unanimity, by both officers and citizens. They were in session many weeks; they applied for, and had possession of the records of the Department; there were among them men of age and experience, whose achievements form a part of the history of the country, and young men of pride, intelligence, observation, and exalted character.

And while I should be uncandid, were I to say that I should have formed the same judgment and the same classification, in regard to each individual, precisely as they have done, without a single variation; yet, so clear is my conviction, from my own official knowledge, of the correctness of their opinion in a large number of the cases, and such is my deference to the judgment of the Board, and their superior knowledge of what renders an officer inefficient, and what constitutes real efficiency, that I cannot withhold from their report my approval, nor advise you to do so, unless your better judgment shall make suggestions which may have escaped me. I have reflected much, sir, on this important proceeding, under a proper appreciation of the trying task devolved on the Board, and with feelings far from indifference or insensibility to the inconvenience and pain to which many may be subjected.

I transmit herewith, a copy of the regulations prescribed by the Department, for the Board under the law.

I have the honor to be, very respectfully,

Your obedient servant,

J. C. DOBBIN.

To the PRESIDENT.

C.

NAVY DEPARTMENT, June 20, 1855.

GENTLEMEN: The President has "caused you to be assembled," with a view to carry into execution an act approved February 28, 1855, entitled "An act to promote the efficiency of the Navy."

The law directs this to be performed "under such regulations as shall be prescribed by the Secretary of the Navy."

Your path of duty is marked out so plainly, and with such distinctness, by the language of the statute, as to enable you to advance unembarrassed with technical questions, and undisturbed by difficulties, save those necessarily incident to the delicate and responsible task of passing upon the relative merit and incapacity of officers, attached to your own honorable branch of the public service. In prescribing regulations, I shall endeavor to be very brief and concise, in order to avoid trammelling your deliberations by a multitude of rules, often more calculated to confuse than to direct.

Reposing confidence in your integrity and intelligence, persuaded of your competency to discriminate with justice, because of your experience and your personal and official association with your brother officers,

entertaining no doubt of your having the independence to discharge your duty with fidelity and steadiness of purpose, however delicate or painful, I have an abiding faith that the honor and reputation of the service will be safe in your hands, and that I need not indulge in elaborate argument, or appeals to your pride as officers, and patriotism as citizens, to co-operate in causing the standard of capacity in the American Navy to be maintained at an elevation commanding the confidence and respect of the country. Considerate statesmen look to the ocean as the theatre on which future national conflicts are, to a large extent, to be settled; and the commerce of the country regards the navy not merely as a friendly ally, but a sure protector. Our wonderful expansion as a nation, the necessary multiplication of grave questions with distant foreign powers, and our wide-spread commerce, have attracted, with greatly increased concern, the attention of the legislative and executive departments of government, to the condition of the navy, and the importance of securing vigor, energy, and capacity in its personnel. In order the more effectually to attain that object, and yet not do injustice from haste or ignorance, Congress has authorized the assembling of a Board of officers, whose duties shall be merely of an advisory nature, and as an aid to the Executive in promoting "the efficiency" of the navy. The Executive has appointed you under that law, and it now becomes your duty to make a "careful examination," and report in pursuance thereof. And here, gentlemen, allow me to invite your attention to the searching language of the law. The law requires capacity; but it stops not here, for it must be a capacity to perform "all duty," "ashore and afloat." But it stops not here, for it is not content with mere capacity to perform duty, but demands that it shall be done not merely "promptly" but "efficiently." The law, therefore, has fixed the test. You are as an advisory Board to assist in enforcing it. Your own sound common sense, and acquaintance with the duties of an officer, will guide you to the true practical interpretation of this efficiency, efficiency—that is what is required. Inefficiency, inefficiency—that is what is to be withdrawn in order to "promote" the efficient. Neither the law nor the country asks for anything unreasonable. In examining as to who are "incapable of performing their whole duty both ashore and afloat," I need hardly suggest to you that an officer may be "incapable" either mentally or morally; for although he may possess a strong mind and robust frame, yet if his moral perception of right and wrong be so blunted and debased as to render him unreliable, he could hardly be ranked as the capable officer, to be intrusted with the lives of his countrymen, and the property and honor of his country.

You will perceive that there are two distinct classes, and that one of those classes is subdivided. You are required to report the names of officers who should be, in your judgment, placed on the "reserved list," and then designate those of the "reserved" who, in your opinion, for service rendered, and for fidelity in the discharge of duty, should receive full "leave-of-absence" pay, and those who should merely receive furlough or half "leave-of-absence" pay.

You are required to advance a step further in your examination, and report the names of such officers as you "believe" have become incompetent, from any cause implying sufficient blame on the part of the officers, to justify your recommending them to "be stricken altogether from the rolls." And on this point I venture to suggest the opinion

that an officer is to "blame" if he has become incompetent from neglect of duty, and inattention and indifference to his profession, as well as from dissipation and immoral indulgence.

I fear a misapprehension may exist in the minds of some in regard to the position before the country of officers placed on the reserved list, on full leave-of-absence pay. It is no degradation; it is rather a high compliment. The pay is liberal, and amply sufficient to the comfortable support of the officer and his family. Indeed, it is the generous act of a government saying to the meritorious officer—"You have served with fidelity, and now, as you have become incompetent to the severe duties of naval life, you can rest from the labors of your profession, without care or anxiety as to your support, as we have provided for it." Nor, gentlemen, do I consider that it will be necessarily a degradation, or a mark of governmental displeasure, for an officer to be placed on furlough, which is half leave-of-absence pay, because he may have become really incompetent to the discharge of his duties, and yet may not have served so long and faithfully, and with such credit, as to entitle him to the highest compensation to the reserved.

According to my conceptions of the spirit of this law and justice to officers and the government, the standard of merit and service should be high, to enable an officer to be placed on the reserved list, with full leave-of-absence pay.

A question having arisen as to the true interpretation of the proviso to the first section, the opinion of the Attorney-General was requested; from which I give you the following extract:—

"I think, therefore, that the effect of the proviso is to require the Board to be subdivided in the process of its action, and to make three distinct sub-reports, which, together, shall constitute the general report. That is to say, the entire body will sit together, deliberate and determine, and, by proper means, authenticate their conclusion as to lieutenants, masters, and passed midshipmen; after that, the lieutenants will have to retire, and the captains and commanders will act in regard to all officers of the rank of commander; when the commanders must retire, and the captains will act as to officers of that rank. All the examinations having thus been made, and the proper judgments reached, in the manner contemplated by the law, the sum total of the opinions will be certified to the Secretary, in such form of authentication as he, in his regulations, shall see fit to prescribe."

The records and files of this department are at your service, and shall be freely submitted to you, to assist in your examination.

I esteem it but proper to say to you that, notwithstanding every effort to avoid them, both my predecessors and myself may have committed mistakes in issuing orders to officers who, "in the judgment of the Board," may not be competent, according to the spirit and meaning of the law. You will not allow such cases, if there be any, to cause you the slightest embarrassment. A calm, conciliatory spirit in your deliberations, will do much to prevent discord, irritation, and heart burnings. All that you are expected to do, is to contribute your opinion—your judgment—to aid the Executive, under the provisions of this liberal statute, in relieving the service of the inefficient, and thereby "promote the efficiency of the navy."

I transmit herewith, for the information of the Board, copies of the act under which it is convened.

1st. You will, therefore, assemble, deliberate, and determine, after a "careful examination," in pursuance of the law, as to passed midshipmen, masters, and lieutenants, during which deliberation, the junior lieutenant will act as Secretary of the Board. Whereupon, the said Secretary will make a record, in the nature of a sub-report, of the "judgment of the Board" as to each grade separately, and, after certifying to its correctness, shall deliver the same to the senior officer, who shall attest it; and the lieutenants will then retire, but not consider themselves as detached from duty.

2d. After the retirement of the lieutenants, the captains and commanders will assemble, deliberate, and determine, after a "careful examination," in pursuance of the law, as to commanders, during which deliberation the junior commander will act as Secretary. Whereupon, the said Secretary will make a record, in the nature of a sub-report, of the judgment of said captains and commanders as to the grade of commanders, and, after certifying to its correctness, will deliver the same to the senior officer, who shall attest it; and the commanders will then retire, but not consider themselves as detached from duty.

3d. After the retirement of the commanders, the captains will assemble, deliberate, and determine, after a "careful examination," in pursuance of the law, as to captains, during which deliberation the junior captain will act as Secretary. Whereupon, the said Secretary will make a record, in the nature of a sub-report, of the judgment of said captains as to the grade of captains, and after certifying to its correctness, will deliver the same to the senior officer, who shall attest it.

4th. When action shall thus have been taken, under the regulations prescribed in reference to all the grades enumerated, the senior officer, for and on behalf of the Board, shall make a general report to the Secretary of the Navy, embodying the records and sub-reports aforesaid, and the results of their deliberation, according to the law under which the Board convened.

5th. The concurrence of a majority of those entitled to examine and report upon the grade under consideration shall be necessary to constitute the vote "the judgment of the Board."

6th. As the deliberations and proceedings of the Board will be incomplete until the approval or disapproval of the President, all information touching the same will be confined exclusively to the Board and the executive department of the government.

I have the honor to be,

Very respectfully, your obedient servant,

J. C. DOBBIN.

Captains WILLIAM B. SHUBRICK, MATTHEW C. PERRY, CHARLES S. McCAULEY, C. K. STRIBLING, ABRAHAM BIGELOW; Commanders G. J. PENDERGRAST, FRANKLIN BUCHANAN, SAMUEL F. DU PONT, SAMUEL BARRON, ANDREW H. FOOTE; Lieutenants JOHN S. MISROON, RICHARD L. PAGE, SYLVANUS W. GODON, WILLIAM L. MAURY, JAMES S. BIDDLE.

Naval Board, Washington, D. C.

D.

NAVY DEPARTMENT, September 17, 1855.

SIR: The Board of Naval Officers, assembled under the "act to promote the efficiency of the navy," approved February 28, 1855, having reported you as one of the officers who, in their judgment, should be placed on the "reserved list," on "leave-of-absence pay," and the finding of the Board having been approved by the President, it becomes my duty to inform you that, from this date, you are accordingly removed from the "active service list," and placed on the "reserved list," on leave-of-absence pay.

You are, however, not detached from the naval observatory. I avail myself of the authority of the law to direct that you continue on your present duty.

I am, respectfully, your obedient servant,
J. C. DOBBIN.

Lieutenant M. F. MAURY,
U. S. Navy, Washington, D. C.

E.

UNIVERSITY OF VIRGINIA, September 20, 1855.

SIR: I received yesterday your communication of the day before, informing me that the President, acting under the advice of "the Board of Naval Officers, assembled under the act to promote the efficiency of the navy, approved February 28, 1855," has commanded that I be removed from the active service list of the navy, and be "placed on the retired list, on leave-of-absence pay."

This announcement has taken me by surprise.

I have been in the navy upwards of thirty years. During this time, I have aimed, in every station to which I have been called, to serve my country truly and well; with what success, the department and the public can judge better than I. Suffice it to say that I am not aware that any charges or accusations, or even any complaint of duty neglected or badly performed during this long period, has ever reached the Department against me; nevertheless, in the judgment of the Board, I should be, and have been placed under official disgrace.

This is a severe blow; and I feel it as a grievous wrong. May I not, therefore, be permitted to know what is the accusation against me, and who my accusers were before the Board?

As soon as health and the miasma of the Observatory will permit, or sooner should you desire it, I propose to return to the Observatory, and to enter upon the discharge of duty there in the new relations to which your communication has consigned me.

Respectfully, &c.,
M. F. MAURY.

HON. J. C. DOBBIN,
Secretary of the Navy, Washington.

F.

NAVY DEPARTMENT, September 24, 1855.

SIR: Your letter of the 20th instant, has been received.

The Naval Board, in accordance with the law under which it was assembled, merely reported the *names* and *rank* of the officers, who, in its judgment, were affected by the law, without assigning the reasons for its action.

The Department is unable therefore, to furnish you any copy of their reasons.

I am, respectfully, your obedient servant,
J. C. DOBBIN.

Lieutenant M. F. MAURY,
U. S. Navy, University of Virginia.

G.

U. S. N. OBSERVATORY AND HYD. OFFICE,
Washington, Oct. 1, 1855.

SIR: I have the honor to acknowledge the receipt of your communication of the 24th ulto. stating that the late Naval Board reported no reasons for its action, and that therefore the Department is unable to comply with my request to be furnished with the accusations, and the names of the accusers that were brought before it against me.

A grievous wrong has been done; and in appealing to you to interpose with the authority of the Department to help me to right, it is proper that I should state the grounds of my complaint, and indicate the extent of the redress I crave at your hands.

My complaint is, that I have been tried and condemned by my peers without a hearing, and that notwithstanding the law did not require of them secret judgment in the premises, yet they proceeded so secretly in my case, that they not only reported no reasons for their finding, but I am given to understand that they preserved no minutes of the accusation against me, made no memorandum of the evidence, kept no record of their votes, nor returned a list of accusers or witnesses.

Nor is this all; I complain of the cruelty of the sentence that they have pronounced against me; and I think you will agree with me that the punishment is excessive.

Their sentence deprives me of valuable professional privileges; it casts a stigma upon my name, and it inflicts naval death; for being tried without a hearing, I am found *incompetent* to do the duties of my profession, and pronounced to be now and forever unworthy of any naval preferment whatever.

Is there anything, I beg to know, either among the files of the Department, or anywhere else within your knowledge, to sustain such an imputation? If there be, I challenge its production, and ask a lawful trial.

The law requires specific charges; but these are vague and the finding of the Board is cruelly so. What is the ground of this "incompetency" for which it has adjudged me to be overslaughed, or rather what is it not? It is drunkenness; it is disaffection; it is moral turpitude; it is everything that can be brought within the category of military crimes,

and misdemeanors; it is anything that envy, hatred, and malice may invent.

May I not know the nature of this secret accusation, and be confronted with the witnesses against me?

The right not to be condemned unheard, is very dear to every American heart; and charges without specifications are most abhorrent to it. I am persuaded that all the rightful authority of the Department will be most readily exercised by you in homage of these great first principles of justice, and that you will be most happy to assist me by all lawful means in your power to secure this right.

Seeing therefore, that the Board which did this wrong, did it privily, and kept no record, I consider it a most fortunate circumstance that all its members are Navy Officers subject to your immediate orders; that the accusations and witnesses are fresh in their minds, and at your bidding I may know from them my offences and accusers. I therefore earnestly request that you will cause the precept of the Department to issue, commanding the officers who composed that Board, to make known the accusations against me, with the names of accusers and witnesses, that charges with proper specifications may thereupon be framed, and I be brought to fair and open trial according to law.

Respectfully, &c.,
M. F. MAURY.

Hon. J. C. DOBBIN,
Secretary of the Navy, Washington.

H.

NAVY DEPARTMENT, October 25, 1855.

SIR: I am in receipt of your communication of the 1st instant, in which you complain of the action of the Board of Naval Officers, who, under the law of Congress, reported that, in their judgment, you should be placed on the reserved list on leave-of-absence pay, without setting forth in their report their reasons; and you request the department to cause a precept to "issue commanding the officers who composed that Board, to make known the accusations against you, with the names of the accusers, that charges with proper specifications may thereupon be framed, and you be brought to a fair and open trial according to law."

The act required them to report the "*names and rank*" of the officers whom they deemed incompetent. The report of the Board was, under the law, to be acted upon by the *President*. It was to be approved or disapproved by *him*, and *not* by the Secretary of the Navy. It was submitted to and by him approved. You are aware that the Board have many weeks ago been dissolved, and the officers composing it have left and gone to their respective duties. I will, however, submit your application to the President, and should he conclude to order a reassembling of the Board, in accordance with your request, I will immediately inform you thereof.

I cannot conclude without one further remark. You speak of "accusations," "accusers," and charges. Now, *under the law*, if the Board had concluded that you were to "blame," they were bound to recommend you to be "stricken from the rolls." They did not attach blame to you, therefore, because they placed you on the reserved list, with full

leave-of-absence pay—the position in which they felt it their duty, under the law, to place other gentlemen well known, like yourself, for spotless character and eminent service.

I am, respectfully, your obedient servant,

J. C. DOBBIN.

Lieutenant M. F. MAURY,
U. S. NAVY, Washington, D. C.

I.

U. S. N. OBSERVATORY, Washington, Oct. 29, 1855.

SIR : I had the honor last Friday to receive your communication of the 25th in reply to mine of the 1st instant. Your official statement that my character is “spotless” affords me no small degree of gratification ; and it is a source of regret that I cannot understand the law as you expound it, nor view the action of the Board otherwise than as imposing official disgrace. You say that the Board did not attach “‘blame’ to me, because if they did, ‘they were bound’ under the law, to recommend me to be ‘stricken from the rolls.’”

The law, according to my poor comprehension, required the Board to make a *careful* examination into the efficiency of certain officers, to separate the competent from the incompetent, and to report the latter to you ; and the Board was required to recommend the name of an officer to be stricken from the rolls only, when, in their opinion, the cause of his incompetency implied *sufficient* blame to justify it ; and the Board, I infer, did not feel authorized to recommend me to be so dealt with, only because the cause of my alleged incompetency did not, in their opinion, imply blame *sufficient* on my part to justify such an extreme measure. As to the degree or nature of the blame that was sufficient to justify such a recommendation, each one has to guess at that as best he may from his own knowledge of the antecedents of officers on the active as well as on the reserved list. When he examines the latter, he is surprised that any should have been left for the former ; and when he considers the former, his surprise is none the less great that any should have been put on the other.

As for my own case, I have not been able to regard the finding of the Board in any other light than that of a judgment intended to cast official disgrace ; and when I consider the mode of proceeding—that it was in secret, and, as I understand, without the obligation of an oath ; the character of the examination which the law enjoined—it was to be so *careful* and close as to amount to *scrutiny*, and yet the Board called for no witnesses, nor examined any ;—when I consider the nature of their finding against me, its vagueness, and the debasing practices and immoralities that render an officer “incompetent” and unworthy of promotion, the sentence pronounced against me does grate upon my feelings with all the harshness and the horror of foul wrong, tyrannical cruelty and injustice. Whatever others may think, I feel it as such ; as such I protest against it ; and therefore it is that I am bold to appeal so earnestly for the sacred privilege of facing accusers, and confronting witnesses, and knowing the precise nature of my offence. It may be that I am incapable of performing the duties of my office, and ought to be retired. I have nothing to say against that. But the Board has proceeded against me in a manner that shocks all our ideas of justice,

and that was warranted neither by the law nor the regulations prescribed by yourself ; and I hope, therefore, you will solicit early action from the President in the case.

Respectfully, &c.,
M. F. MAURY.

HON. J. C. DOBBIN,
Secretary of the Navy.

J.

NAVY DEPARTMENT, November 9, 1855.

SIR : In my last communication I informed you that I would lay before the President your application to the Department, to issue an order to the officers of the late Naval Board, to report the reasons upon which their action was based in regard to yourself. The President is of opinion that the law merely contemplated that they should report their judgment, their "finding," without the facts or reasons upon which that finding was based ; and, that there is not any authority under the law to *command* them, in accordance with your wishes, to report *reasons* for their opinions and recommendation.

I am, respectfully, your obedient servant,
J. C. DOBBIN.

Lieutenant M. F. MAURY,
U. S. Navy, Superintendent Naval Observatory, &c.

K.

U. S. N. OBSERVATORY, Washington, Nov. 8, 1855.

SIR : On learning that I had been placed in official disgrace by the late Navy Board, of which you were the President,* I addressed a communication to the Secretary of the Navy, requesting to be informed as to the nature of my alleged "incompetency," and the evidence of it. I learn in reply that the Board reported the "*names and rank of officers*" only, and gave no reasons for its action.

I therefore appeal to your sense of justice, and request that you will be so good as to answer me at your earliest convenience, the following questions, which are numbered for the convenience of your reply.

1st. What was the process of examination adopted by the Board, for ascertaining whether an officer was efficient or not ?

2d. What was the standard of efficiency for the grade of lieutenant ?

3d. What difference, if any, did the Board, in weighing the efficiency of lieutenants, make between duty ashore and duty afloat ?

4th. Wherein was I found *incapable of performing the duties of my office, rank, or grade* ?

5th. Did the Board inspect the Observatory, or make any other examination as to the manner in which it is conducted ?

6th. What was the character of the evidence upon which the Board pronounced its finding against me ?

Should you have any objections to speak for the Board in reply to these interrogatories, I hope you will have no objection to speak for

* A copy of the above letter was addressed to each member of the Board.

yourself, and to answer them, at least so far as your own votes and action as a member of the Board are concerned.

Respectfully, &c.,
M. F. MAURY.

Commodore W. B. SHUBRICK,
U. S. N., Washington, D. C.

K'.

H ST. WASHINGTON, D. C., 9th November, 1855.

SIR: I have received your letter of the 8th inst., commencing as follows: "On learning that I had been placed in official disgrace by the late Navy Board, &c. &c."

My surprise is as great as my regret that you should have taken such a view of the position assigned you by the late Board; the distinguished names found on the list of officers "retired on leave-of-absence pay" most emphatically forbids it, and I am sure that if it had been supposed by the Board that any inference in any way unfavorable to your high character could be drawn from their action, there would not have been one voice, no not one, for placing you there.

The Board, of which I was the senior and presiding officer, having discharged the duty assigned to it by the act of Congress, by reporting the names of such officers as, in its judgment, should be removed from the active list of the navy, the President having approved the report and directed its recommendations to be carried out; and the Board having been dissolved by the authority by which it was appointed, and having ceased to exist, it is not competent to any individual member, in my opinion, to speak for it.

Having no authority or competency to speak for the late Board, it only remains for me to say that for myself I decline to make any reply to your very extraordinary interrogatories, and I do so neither from want of a "sense of justice" to which you appeal, nor from a wish to avoid any responsibility that may rightfully attach to me as a member of the late Board, but solely because I could not reply to them without a violation of what I believe to be the proprieties of the service to which we both belong.

Respectfully, &c.,
W. B. SHUBRICK,
Captain, U. S. Navy.

Lieutenant MATTHEW F. MAURY,
Superintendent of Naval Observatory, Washington.

K'.

NEW YORK, Nov. 12, 1855.

MY DEAR SIR: Your letter of the 8th instant is at hand. Whatever may have been my opinion, or course of action, in respect to "the late Navy Board," of which I was a reluctant member, I feel myself constrained to reply to you, as I have to others making similar inquiries, that an implied obligation of confidence deters me from imparting the information you desire. Though, in justice to those who have been affected by the action of the Board, I cannot but hope that steps may

soon be taken by the proper authorities, to develop the causes, and explain the circumstances which have brought about this painful change in our common service.

Respectfully and truly, your obedient serv't,

M. C. PERRY.

Lieut. M. F. MAURY,

U. S. Navy, Naval Observatory, Washington.

K³.

WASHINGTON, Nov. 9, 1855.

SIR: I have the honor to acknowledge the receipt of your communication of yesterday's date, and, in reply thereto, beg leave to express my regret that I cannot furnish you with the information which the queries contained in your note call for.

I am, respectfully, your most ob't serv't,

C. S. McCAULEY.

To Lieut. M. F. MAURY,
National Observatory.

K⁴.

WASHINGTON CITY, November 10, 1855.

SIR: I received yesterday your letter of the 8th instant. The following is the only answer I feel at liberty to give under existing circumstances.

The President having approved the recommendations of the Board, I do not consider it proper to answer such questions as you propose, unless called upon officially, or legally, to do so.

Very respectfully your ob't serv't,

C. K. STRIBLING.

Lieut. M. F. MAURY,

Sup't U. S. Obs'y, Washington City.

K⁵.

NAVY YARD, NEW YORK, Nov. 14, 1855.

SIR: I have received your communication of the 8th inst., requesting me to answer certain interrogatories, with reference to the action of the late "Navy Board," of which I was a member.

In reply, I can only say that I do not feel at liberty to give you the information you desire.

I can say, however, that I am confident that the Board, in giving their collective opinion, as required by law, with reference to dropping officers from the active list, did not intend to "place" such officers in "official disgrace."

It certainly was not viewed in that light by myself.

Respectfully, &c.,

A. BIGELOW.

Lieut. M. F. MAURY,

U. S. Navy.

K⁶.

WASHINGTON CITY, Nov. 10, 1855.

SIR: I have received your letter of the 8th inst., and, in reply, beg leave to decline answering, either for myself or the Board, your six interrogatories. Whilst compelled thus, from a sense of duty, to refuse your request, I feel constrained to offer a few remarks on that portion of your letter in which you state that you have "been placed in official disgrace by the late Navy Board." I apprehend that Congress, when enacting the law under which officers of irreproachable character were reported as subjects for the honorable reserved list on leave pay, could hardly have supposed that it would inflict "official disgrace." The Secretary of the Navy did not so regard it in his letter of instructions. The Board, in discharging its onerous and painful duty, did not so view it, and, lastly, in your particular case, the Executive has shown that he attaches no such consequences to it; for, whilst he approves of your removal from the active list, he has paid you the high compliment of retaining you in your present honorable and distinguished position at the Naval Observatory, with all its advantages and munificent provisions unabridged.

I am, very respectfully, your ob't serv't,
G. J. PENDERGRAST.

Lt. M. F. MAURY,
U. S. Navy, Naval Observatory, Washington, D. C.

K⁷.

"THE REST," NEAR EASTON, MD, Nov. 11, 1855.

SIR: By the mail of yesterday, I received your communication of the 8th instant, propounding to me certain interrogatories relating to the action of the late "Navy Board," of which I was a member. As a member of that "Board," I cannot answer any interrogatories relating to its action.

Respectfully, &c.,
FRANK. BUCHANAN, Captain.

Lieut. M. F. MAURY,
U. S. Navy, Washington.

K⁸.

WASHINGTON, November 16, 1855.

SIR: Your favor of the 8th instant, containing certain interrogatories in relation to the action of the late Naval Board convened by the President, in conformity to the act of Congress, approved February 28, 1855, to promote the efficiency of the navy, was duly received.

To those interrogatories, you will pardon me for saying I can give you no further answer than that I, with the other members of the Naval Board, were the instruments of the law, and did what, in our judgment, the law made it our duty to do. The action of the Board was submitted to the revision of the Executive, and approved; and the law neither makes us responsible for the results its execution involved, nor directs

or authorizes a response to your interrogatories. Excuse me also for saying that my individual vote is not a fit matter for inquiry.

Lest you might infer, if I failed to notice it, that I assented to the remark of your having been placed in "official disgrace," I desire to add that, in my opinion, neither the law of Congress, the instructions of the Navy Department, nor the action of the Board, authorizes any such construction.

Respectfully, &c.,
S. F. DUPONT.

Lieutenant M. F. MAURY, U. S. N.,
Superintendent U. S. N. Observatory, Washington.

K⁹.

WASHINGTON, November 10, 1855.

SIR: Your letter of the 8th instant is received. I do not feel myself at liberty to answer your interrogatories either for myself or the Board.

I regret to find that you consider your separation from the "active list" of the navy, and being placed on the "reserved list," with full "leave-of-absence pay," an "official disgrace." Congress did not so view that feature in the law whilst it was under discussion. The Secretary of the Navy gives a far different interpretation to it; and the President, in continuing you as the Superintendent of the Naval Observatory, pays a well-merited compliment to your scientific attainments, and the faithful discharge of your duties in the situation which you have filled with such distinguished credit to yourself, and approbation of the country.

Respectfully, &c.,
S. BARRON.

Lieutenant M. F. MAURY,
U. S. Naval Observatory, Washington.

K¹⁰.

NEW HAVEN, November 10, 1855.

SIR: Your letter of the 8th instant, requesting an answer to several questions proposed in reference to the action of the late Naval Board, &c., has been received. In reply, permit me to state that, with every disposition to comply with your wishes, I consider that the Board, having discharged the duties for which, under the law, it was organized, its decisions having been recorded and approved by the President, and the Board dissolved, any further action by individual members explanatory of the proceedings, or of their own votes or action, would be unauthorized and irregular.

I am respectfully your obedient servant,
ANDREW H. FOOTE.

Lieutenant M. F. MAURY,
Sup. Nat. Obs., Washington, D. C.

K¹¹.

BOSTON, November 12, 1855.

SIR : In reply to your letter of the 8th, I beg to say that the law under which I was required to act upon the late Board, prescribed, and limited my duty merely and entirely to the expression of an opinion in each individual case of officers in certain grades. Therefore, I do not feel at liberty to deviate from its specific requirements without more mature reflection, and perhaps advice ; otherwise, individually, I should have much pleasure in replying to your interrogatories.

I do not concur in the view you were pleased to take of your position in your communication to the Department to which you allude ; neither the interpretation of the law, nor the intention and opinion of the Board, as expressed, placed you in "official disgrace."

Respectfully, your obedient servant,

J. S. MISROON.

Lieutenant M. F. MAURY,
U. S. N. Observatory, Washington.

K¹².

NAVY YARD, NORFOLK, November 10, 1855.

MY DEAR MAURY : Your communication of the 8th inst. is received.

I do not feel myself at liberty to answer your questions, otherwise, I would do so with pleasure. I should be extremely sorry to think that one I esteem so highly, had, in any sense, been placed in "official disgrace."

Very truly your friend,

RICHARD L. PAGE.

Lieut. M. F. MAURY,
Supt. Nat. Obs'y, Washington, D. C.

K¹³.

PHILADELPHIA, November 13, 1855.

SIR : I have received your communication of the 8th inst. In reply I have to say that, individually, I do not consider myself authorized to express the views of the late Navy Board, of which I was a member. I can say for myself, however, that in every case that presented itself to my mind, as coming under the law of Congress which established the Board, and the ample instructions of the Secretary of the Navy, which governed its actions, I fully concurred in the report submitted to the Secretary.

Neither the law of Congress, nor the instructions of the Secretary of the navy, according to my ideas, "placed in official disgrace" an officer who, by the Board, was retained on the full retired pay list.

I am, very respectfully, &c.,

S. W. GODON.

Lieutenant M. F. MAURY,
Washington, D. C.

K¹⁴:

BOWLING GREEN, VA., November 14, 1855.

SIR: Your communication of the 8th inst. has been received.

In reply to your 1st, 2d, and 3d questions, I have to state that I cannot answer for the Board.

To the 4th, 5th, and 6th, I can only say that I did not inspect the observatory, but cannot answer for the Board, nor say why you were retired.

I am, respectfully, your obedient servant,
 W. L. MAURY,
 Lt. of U. S. Navy.

Lieut. M. F. MAURY, U. S. N.

Supt. U. S. N., Obs'y, Washington.

K¹⁵.

PHILADELPHIA, November 15, 1855.

SIR: I have received your letter propounding to me six formal interrogatories as to the action of the late Naval Board, to which you desire answers.

The official report of that Board was duly submitted to the Secretary of the Navy, and received his approval, and that of the President of the United States. No further call for information has been made from any official source, and I do not feel disposed to submit myself to examination, in the form proposed by you, at the demand of every individual who may assume the right to catechize me upon the subject.

I might here close my reply to your letter; but whilst I have no authority or inclination to speak for the Board, I will not decline, in your case, to give the information which you seek, as to my own opinions and votes.

The fact that you, some years since, met with an unfortunate accident, disabling you for service at sea, is notorious. Your claim for damages in a civil suit was partly based upon the fact that you were thus disabled. Since the year 1840, you had not performed any duty at sea, and your service in a man-of-war dates still further back. A physical disability to perform the duties of Lieutenant at sea, was clearly a case for retirement, under the law. Upon that ground, I voted for your being reserved *on leave pay*. I trust this is satisfactory, and I cannot refrain from expressing my astonishment that the Board should be charged with placing an officer in "official disgrace" by classing him with Commodores Stewart and Conner, Commanders Shields and Saunders, Lieutenants Palmer and Decatur, and the rest of the "reserved list on leave pay." That list was intended by Congress to be one of perfectly honorable retirement, and the Board were scrupulously desirous it should be so. They would have acted very strangely if they had gone about to disgrace an officer by putting him where their official instructions expressly informed them they were to consider it "a high compliment" to be placed.

The question of relative weight to be assigned to "duty ashore and duty afloat," it will be perceived, does not enter into the case of an officer physically disabled for the latter. It could only arise where no such



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disability existed. But I may say, in general, that for conceive that every officer owes it to his country, to his profession, and to his brother officers, to perform his share of the most unpleasant, yet the most important duty of the Navy, namely, service afloat; that to underrate that branch of the profession, whether by individuals or by a Navy Board, is to aim a fatal blow at the efficiency of the Navy; and that long desuetude may incapacitate for this, as well as for any other occupation. Whenever cases presented themselves to the Board, of officers physically able, but morally unwilling, to perform that duty, I consider they were bound to remove such persons from the active list—no matter whether that unwillingness arose from idleness, love of ease, love of money, preference for other pursuits, or even from an otherwise most laudable *love of scientific distinction*. Such persons came under the condition of the Secretary's instructions, as having "become incompetent from neglect of duty, and inattention and indifference to his (their) profession." The plea of not having been compelled by the Executive authority, to perform this service, if admitted for them, is equally available for every instance of duty neglected or unperformed. And thus one of the most important objects of the Board's appointment would be entirely defeated. The Secretary of the Navy discerned, acknowledged, and very wisely removed this source of embarrassment in his instructions to the Board.

Such being my conscientious convictions—they were my guide in my own course upon the Board—are at all times freely expressed by me, and will furnish, I presume, a sufficient answer to your inquiries upon that head.

Respectfully, &c.,
JAMES S. BIDDLE.

Lieut. M. F. MAURY,
U. S. Navy.

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